IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FAMILY COURT APPEAL NO.199 OF 2007

Dr. Shri Sumesh Shamrao Kamble .... Appellant

V/s

Smt. Kumudini Sumesh Kamble
along with minor daughter
Kumari Pranali Sumesh Kamble .... Respondent.

Mr. Aniket Deshkar with Mr. Abhijit Kadam for the appellant.

Mr. Prakash Wagh for the respondent.

CORAM : D.K. DESHMUKH &
V.M. KANADE, JJ.
DATE : 4th December, 2007.

P.C.:

1. By consent of parties, the appeal is disposed of in the following terms:-

(i) The impugned order in appeal is set aside.

(ii) Petition No.C-57 of 2004 is remitted back to the Family Court for *de novo* consideration, hearing and decision in accordance with law, subject to following conditions :-

(a) The amount of Rs 25,000/- plus Rs 10,000/- plus Rs 2,000/- deposited by the appellant in this Court pursuant to the order passed in Civil Application No.300 of 2007 shall be permitted to be withdrawn by the respondent - wife.

(b) That, without prejudice to his rights and contentions, the appellant shall pay Rs 5000/- per month to the respondent - wife and the minor daughter Pranali from the date of application i.e. 17/02/2004 till the decision of the matter by the Family Court.

(c) So far as the arrears of maintenance from February, 2004 till December, 2007 are concerned, Rs 50,000/- shall be deposited by the appellant with the Family Court within four weeks from today. The deposit to be made with the Family Court with intimation to the respondent - wife. The amount of deposit shall be permitted to be withdrawn by the respondent - wife.

(d) The balance amount of arrears shall be

deposited by the appellant in two equal instalments within a period of 5 months from today. The deposit to be made with the Family Court with intimation to the respondent - wife. That amount, on being deposited, shall be permitted to be withdrawn by the respondent - wife.

(e) So far as the amount of maintenance from the month of January, 2008 is concerned, the amount of monthly maintenance shall be deposited with the Family Court every month on/or before 10th of each calendar month with due intimation to the respondent - wife. The Family Court shall permit that amount to be withdrawn by the respondent - wife on deposit. The withdrawal of the amount by the respondent - wife shall be without prejudice to her rights and contentions in the matter which we are remitting back to the Family Court.

(f) All the contentions available to both the parties are kept open to be raised before the Family Court and to be considered by that Court.

(g) On deposit of Rs 50,000/-, as directed above, within a period of four weeks thereafter, the appellant shall file his Written Statement before the Family Court.

(h) If the appellant makes any default in deposit of the amounts as directed above, this appeal shall be treated as dismissed without further reference to the Court.

(i) If the amounts are deposited and Written Statement is filed as directed above, the Family Court shall hear and dispose of the matter as expeditiously as possible and, in any case, within a period of six months from today.

2. In view of the order passed in appeal, Civil Application No.300 of 2007 is also disposed of.

(D.K. DESHMUKH, J.)

(V.M. KANADE, J.)